S. HRG. 99-112, PT. 3

DEFENSE PROCUREMENT PROCESS

HEARING

BEFORE THE

SUBCOMMITTEE ON
DEFENSE ACQUISITION POLICY

OF THE

COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

JANUARY 30, 1985

PART 3

Printed for the use of the Committee on Armed Services

U.S. GOVERNMENT PRINTING OFFICE
46-665 O WASHINGTON : 1985

S201-28

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(99th Congress, 1st Session)

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DEFENSE PROCUREMENT PROCESS

WEDNESDAY, JANUARY 30, 1985

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
SUBCOMMITTEE ON DEFENSE ACQUISITION POLICY,
Washington, DC.

The Subcommittee on Defense Acquisition Policy met, pursuant to notice, at 10:05 a.m., in room SD-538, Dirksen Senate Office Building, Senator Dan Quayle (chairman) presiding.

Present: Senators Quayle, Wilson, Levin, and Bingaman.

Staff present: James F. McGovern, staff director and chief counsel; and Alan R. Yuspeh, general counsel; Alan Chvotkin and Jon Etherton, professional staff members; Patricia L. Watson, research assistant, and Marie Chaillet, staff assistant.

Also present: Ralph White, assistant to Senator Levin; Gerald J. Smith, assistant to Senator Goldwater; Bernard R. Toon, assistant to Senator Quayle; Edward McGaffigan, Jr., assistant to Senator Bingaman; Charles C. Smith, assistant to Senator Dixon; and Jeff Minsky, assistant to Senator Cohen.

OPENING STATEMENT BY SENATOR DAN QUAYLE, CHAIRMAN

Senator QUAYLE. The committee will please come to order.

This is a continuation of our hearings on the procurement issue and an attempt to get a full comprehension of the problems and the things that we can do to improve the efficiency of our acquisition cycle.

In the past we have heard from present DOD officials, former DOD officials, GAO officials, and we have heard from academia.

Today we have two outstanding representatives from industry who will give us their viewpoint and outlook on what we can and should be doing in the area of procurement to be more efficient and how the system, from their viewpoint, looks.

I think the fundamental question that all of us have and the reason we are paying a lot of attention to this issue, and I notice yesterday the Secretary designated an Assistant Secretary for Defense for Acquisitions and Logistics, that this is becoming much more of a priority within the Department of Defense than it has been in the past.

It certainly has been much more of a priority in the Congress, particularly with legislation that was passed last year, than it ever had been in recent memory or perhaps even from historical perspective.

I think if we look at the situation and the talk and discussion around the country in that the Defense Department, defense com-

munity, like everybody else, there are certain budgetary restraints that are going to have to be imposed.

As we look at the budgetary restraints, we look at what the threat is going to be outside our borders and there are certain things that have to be done. Our challenge today is to meet not only that threat and provide that strong security, but we have to do it with less resources from the fiscal point of view and appropriations point of view than we had originally anticipated.

Therefore, what we face is an extraordinary challenge of trying to get that weapon system, those resources, in the proper place, get the maximum efficiency if we can.

Because of the budget outlook, it is very important that we look and examine the issue of cost which is a very important ingredient in the whole defense strategy. It is an important ingredient as we look at how we can improve our efficiencies whereas in the past cost avoidance has been important. It is not nearly as important, however, as it will be in the future because, in my opinion, of the budgetary outlook that we can see at least for the next decade.

It will be severe, it will crimp everybody's expectations; therefore, we will have to do a better job with a lesser amount of money. Doing a better job with a lesser amount of money means we have to demand more efficiencies and weed out any inefficiencies.

Things that we should change or not change should be of great interest.

We are delighted to have Roy Anderson and Tom Pownall with us this morning, people who represent their respective companies very well and have had a long-time interest in defense and considered to be very well versed in the problem of acquisition and procurement.

They can give us their version and hopefully can give some options that we as a committee can consider as we go into the 1986 Defense authorization bill.

[The prepared statement of Senator Quayle follows:]

PREPARED STATEMENT BY SENATOR QUAYLE

The Task Force meets today to receive testimony from two individuals representing two of the largest corporations within our defense industry. Both have served in a variety of executive positions within their respective companies and they are before us today to share the defense industry perspective on defense procurement.

This hearing is the last in a series of three in which we have requested the general views on defense acquisition policy from professionals in the public and the private sector. The first two hearings in the series took place on September 13 and 20, 1984. It had been the intention of the Task Force to hear from industry on September 27, but the full Committee's involvement in the defense authorization conference forced us to postpone the final hearing until today. We appreciate the willingness of both of our witnesses, Mr. Anderson and Mr. Pownall, to appear before us at this rescheduled hearing.

During the course of the first two hearings, in which we receive testimony from the heads of the military procurement activities and from two of recognized outside experts in the defense procurement field, several weaknesses in the current system were brought to light. Among the problems discussed were the unacceptable length of time between the inception and full scale production of most of our major weapons programs; the instability of the budget process; the lack of an established career path for acquisition professionals in the government; and, the difficulty of providing strong incentives to reduce costs within current procurement regulations. Our witnesses today will no doubt address many of these perceived weaknesses in the defense procurement system.

Today we will receive the views of Mr. Roy Anderson, Chairman and Chief Executive Officer of the Lockheed Corporation, and Mr. Thomas G. Pownall, Chairman and Chief Executive Officer of the Martin Marietta Corporation.

Mr. Anderson joined the Lockheed Corporation in 1956 and has served in his present capacity since September, 1977. Prior to his election as chairman and chief executive officer, he was responsible for financial management at various levels within the Lockheed Corporation.

Mr. Pownall joined the Martin Marietta Corporation in 1963 and has served as chief executive officer since April, 1982. In 1976, Mr. Pownall received the Theodore von Karman Award for his contribution to Project Viking, which was designed, developed, and built during his tenure as president of Martin Marietta Aerospace.

I am certain that the testimony we are about to receive will significantly broaden our understanding of the complexities of the defense procurement process. It is vital that, as we begin the first session of the 99th Congress, we have an understanding of the effect of past Congressional legislative action, as well as direct to those areas where greater oversight is needed.

Senator QUAYLE. At this time I will ask Senator Wilson if he has any statement he would like to make before turning to the witnesses?

Senator WILSON. Thank you, Mr. Chairman.

Since yesterday I had the privilege of listening to 2 hours of opening statements by all the judiciary members while I sat waiting to introduce Mr. Meese, I have gained a new perspective on members' opening statements.

I will spare the audience in the interest of getting testimony, which I have read and which I will say responds, I think, to your concerns and the concerns that I have about how Congress, itself, has needlessly complicated the process, probably with the best of intentions.

I am concerned with what seems to me to be duplication of effort in the interest of trying to keep the contractor honest which very likely has stretched out the process, added to time and I suspect to cost.

That is the thrust of both statements this morning, I know, having read them.

I think that one of the things this particular task force has an opportunity to do is to pursue in some detail the examples of how we are adding to the time but not to the quality of the process and I suspect adding to the cost.

It seems to me that maybe what we should consider undoing congressionally are DOD-imposed requirements where they really do not seem to be productive of anything but a delay. I am particularly interested in trying to find out whether or not we are doing things so redundantly that we are needlessly complicating the procedures resulting in time and cost considerations.

Without more comment, I will be happy to get into the details.

Senator QUAYLE. Senator Bingaman?

Senator BINGAMAN. I have no opening statement. I look forward to testimony.

Senator QUAYLE. We will proceed in alphabetical order.

Mr. Roy Anderson, chairman of the board and chief executive officer, Lockheed Corp.

STATEMENT OF ROY A. ANDERSON, CHAIRMAN OF THE BOARD AND CHIEF EXECUTIVE OFFICER, LOCKHEED CORP.

Mr. ANDERSON. I am Roy Anderson, chairman and chief executive officer of Lockheed Corp., headquartered in Burbank, CA.

Thank you for this opportunity to appear before you on this vital subject.

First, I wish to express my appreciation to Senator Goldwater for considering the establishment of a Permanent Subcommittee on Defense Acquisition Policy. I understand that has not taken place yet, but we hope it does.

I also thank you, Senator Quayle, and other members of the subcommittee for the attention you are devoting to these important national security issues.

We in industry welcome the defense acquistion policy oversight that would be provided by this subcommittee. We would also welcome the institutional memory and permanent record such a subcommittee would provide.

We trust that the process will reduce the oversight proliferation of multiple competing committees and subcommittees, which complicates our efforts to work with the Congress and Department of Defense in addressing complex procurement issues.

I believe I speak for our industry in committing our best efforts to achieve mutual Government and private sector objectives that are in the overall public interest.

I believe there is an urgent need for the development of a centralized, deliberate, and constructive record on the procurement process. This is a complex subject that deserves more depth than is possible with press releases and news coverage.

Indeed, sensationalized headlines and horror stories that shatter confidence in the quality and pricing of our products are deeply felt by the people of our industry. I assure you that our industry is eager to find ways to correct not only the perception, but the realities when necessary, that undermine that confidence. We care as Americans, and we care as an industry.

Like any other corporations in our competitive free enterprise system, we are totally dependent on the satisfaction and confidence of the people we serve. In our case, our service is to the people of this Nation. The products of our industry are essential to the preservation of peace and freedom and the protection of America's worldwide commitments.

The men and women of our armed services must be equipped with the best weapons available, and the American public deserves assurance that tax dollars devoted to our military needs are prudently expended.

How have we done as an industry? We believe our Armed Forces are equipped with the best military equipment in ths world. This has been accomplished without a disproportionate or disruptive share of our gross national product being devoted to defense.

Yet, today, our industry has come under increasingly vehement criticism for fraud, waste, and abuse. Sure, industry has made some mistakes, but I believe that in relation to the magnitude and complexity of defense procurement, they have been isolated.

Heroes have been made of those who criticize our industry and the Department of Defense. Virtually ignored are those extraordinary people in the defense establishment and in industry who have the dedication and management genius that it takes to carry a complex program through to a successful conclusion.

We have many genuine heroes. Let us acknowledge them. They are the true builders of public confidence; they do not undermine.

Let us clearly recognize that our defense capability depends on a triad consisting of the Congress, the executive branch, especially the military services, and the defense industry. If we are to achieve our defense objectives, we must work as partners, not adversaries.

Adversarialism creates barriers to prompt action; a constructive partnership seeks prompt solutions.

Adversarialism creates prolific regulation; a constructive partnership will tend to minimize unnecessary regulation.

Adversarialism will tend to slow down innovation; a constructive partnership will foster creativity.

Adversarialism adds people and bureaucarcy; a constructive partnership will seek ways to reduce the number of people and simplify organizations.

Adversarialism adds cost; a constructive partnership seeks ways to reduce cost.

These assertions are not generalities. Let me cite a specific example in support of my assertions.

In our "Skunk Works" in Burbank we develop defense systems under restricted classified conditions for about two-thirds the cost of developing a system on a nonclassified basis, and we do it in about two-thirds the time, same company, same kind of technologies. The only real difference is the management method and the freedom from tinkering by too many people.

In these carefully restricted access programs we find there is considerably more mutual trust and joint problem solving between the customer and us. We both take on a high degree of responsibility for self-monitoring and problems tend to be exposed earlier.

There is a remarkable lack of adversarialism. There is a marked presence of a constructive partnership. There is a minimum of haggling over contractual language. The prevailing attitude is "Let's get the job done—as a team." And we do, at lower cost and in less time.

Mr. Chairman, let's make the triad work as it is supposed to work. I am convinced that if the business of defending our Nation is to be conducted in a manner that will gain the confidence of our citizens, the primary accountability must rest with management—management in the defense establishment and management in the industry.

You are on target, Mr. Chairman, in asserting that it is possible, indeed preferable, for Congress to exercise its oversight responsibilities without necessarily enacting new legislation.

Please, let us digest the considerable legislation that has already been enacted of late.

The solution is not more legislation. Instead more management flexibility and accountability are needed.

Let me be specific as to what I believe the Department of Defense and industry must address from a management and accountability standpoint:

One, we need to shorten the acquisition cycle. Prolonged cycles increase cost.

Two, we need to reevaluate the specifications we impose. We need to guard against overspecification, which costs time and money.

Three, we need to give the DOD program managers requisite authority to make reasoned and prompt decisions without subjecting them to duplicative audits and second-guessing which impedes program progress and necessitates voluminous and time-consuming "Pearl Harbor" files.

Four, we need to embrace the concept of contract incentives for cost, schedule, quality, reliability and performance, with penalties where they are not met.

Five, we need to make sure that once an equipment is placed in service that it is properly maintained and appropriate spares provisioning is in place, and funding provided for that.

Six, we need to more accurately project downstream costs of new or contemplated programs, and more accurately weigh downstream affordability. Failure to do this results in programs having to be either cut or stretched out. Cut programs are a waste. Stretched-out programs cost substantially more.

Seven, we need to prevent and penalize auction pricing and buy-ins or new programs. Such practices destroy downstream budget credibility and also result in programs having to be either cut or stretched out.

Eight, we need to seek more commonality of equipment between the services. Some baseline equipments can be modified to meet each service's requirements.

Nine, we need to react swiftly and in concert to ferret out and correct the causes of systemic problems as exemplified by the spares pricing difficulties.

Mr. Chairman, if the Department of Defense and industry can effectively address these problems, we will go a long way to ease the concerns of Congress and the concerns of our people.

And then I would hope that we could substantially lessen or eliminate the frequent and duplicative, and sometimes trivial, probes, audits, and reviews which tend to impede program progress. We are not afraid of these. We just don't like to see them coming from four agencies. Two examples:

One, we recognize the requirement of the Defense Department to have a strong and effective audit function. We question, however, the necessity for the several audit functions that presently exist, and are concerned that these functions play too large a role in defense management or establishment of defense policy.

Two, we question the necessity for the independent director of test and evaluation which Congress insisted be set up within the Department of Defense. His role is to ensure that defense systems are thoroughly tested before they enter service.

The industry strongly believes this creates another level of bureaucracy and will add costs. Besides, the stipulated role is the joint responsibility of the military program manager and the con-

tractor. They, better than anyone else, know the particular defense system. Why detract from their responsibilities? Let them do their job and hold them responsible for it.

Mr. Chairman, several times I have commented on delegating to the military program manager requisite authority to do his job completely.

I want to go back to one of our basic objectives, that of shortening the procurement cycle. There is a human or personnel side to this, an important one. It has to do with the authority of the military program manager.

In my 35 years in the defense industry, I have been associated with many military program managers. I believe this Nation can be proud of and can have great faith in their professional capability, their excellent educational background, their integrity, and their ability to do an excellent job of managing complex programs.

To do the job they are capable of doing with the contractor to shorten procurement cycles, they need commensurate authority. For it to be fully effective, the military program manager needs to have, in the upper levels of civilian management in the DOD that he must interface with, a good sprinkling of personnel who have had management experience in the defense industry and who have the background to understand and promptly react to problems.

We are concerned, and I know the military is concerned because I have talked to several of them, about proposed highly restrictive conflict of interest legislation relating to employees of the DOD, particularly as it applies to civilian employees.

Those proposed laws would be so restrictive as to effectively prohibit a civilian from the defense industry, once he enters DOD employment, from returning to the industry or at least restricting his return to such an extent as to almost destroy his professional career.

Such laws will deprive the Defense Department of civilian management expertise it sorely needs to assist the military program manager in performing his procurement task.

I believe there is so much to be gained from a freer flow of civilian expertise into the DOD. Apparently overreaction to a very few isolated instances of abuse is threatening to close the doors of the DOD to skilled, dedicated, and highly motivated principled citizens who would like an opportunity to serve their country. The DOD needs them.

Please, Mr. Chairman, look into this before the doors are closed.

Finally, we would urge that Congress strive to provide a greater degree of fiscal certainty. Unless this is done, some programs will not be stable enough to induce industry to invest in plant and equipment modernization, and to provide cost-effective production runs.

Congress must be willing to grant authority for multiyear procurements and, as a minimum, provide for biennial authorization and appropriation on selected programs.

Industry can help to reduce the defense budget by lowering the life cycle cost of weapons systems. If Congress and DOD cooperate in putting adequate funds up front in the design and development phase, with emphasis on producibility, reliability and maintainabil-

ity, downstream production, operation, and maintenance costs can be significantly reduced.

Mr. Chairman, there is much that needs to be done and much that can be done to accomplish the objectives of this committee. I have every confidence that your committee will make decisions based on data and facts, that you will not create cumbersome and expensive reporting requirements, and most importantly, your actions will benefit the procurement system.

We in the defense industry must always look beyond the horizons. And this great national resource must not be allowed to be caught in a bitter crossfire.

With your help, Mr. Chairman, we can begin to move together toward a more efficient and effective defense acquisition system.

Thank you.

Senator QUAYLE. Thank you very much, Mr. Anderson.

Now, Tom Pownall, who is the chief executive officer of Martin Marietta Corp.

STATEMENT OF THOMAS G. POWNALL, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, MARTIN MARIETTA CORP.

Mr. POWNALL. Mr. Chairman, I am Thomas G. Pownall, chairman and chief executive officer of Martin Marietta Corp.

I am pleased to meet with this task force to discuss issues related to defense procurement. I would like to endorse what my good friend and associate colleague, Mr. Anderson, has just had to say. I think he has made a very fine statement.

My experience with Government procurement matters covers a period of 30 years, during which time I have observed the management of many programs and have borne witness to significant procedural and policy changes to the acquisition processes.

As I reflect on my personal knowledge of the system, I find myself perplexed and somewhat disheartened by the criticism that sometimes seems to surround Government procurement today. It seems at times unbalanced and needlessly unfair.

It is particularly relevant to me that defense procurement is under the management of a relatively small group of men and women, both military and civilian, who constitute the first line of defense for this country. They are highly intelligent, well educated, extremely dedicated, and very competent.

It is not possible to find a more ethical or capable group of people in America today. They set the requirements, manage the process, and use the equipment that they buy. In my opinion, they have performed well.

Industry people on the other side of the table are likewise dedicated and hard working. They are products of the American free enterprise system. The U.S. defense industry, which is a part of our free enterprise system, has been greatly influenced by the forces of the monopsony controlled by its customer, the U.S. Government. Its strengths and weaknesses are in large part reflections of Government actions and the democratic process.

In assessing what industry firms do, or fail to do, consideration must be given to the relationship of Government and industry

where the latter fulfills Government requirements for noncommercial goods and services.

It is, in fact, a joint undertaking which is unique in the free enterprise system. Industry does not run the show. The Government writes the specifications, prescribes delivery schedules, controls the designs, determines affordability, and exerts a much more decisive role than is typical when industry is selling in the free marketplace.

Industry is not without its shortcomings. We are mindful of public perception and we, too, are dismayed at times when human failings or poor management on our part become the source of cost growth, degraded performance, deferred delivery, and even isolated examples of abuse.

We are committed to work as diligently and as conscientiously as possible to remedy these problems as is the Congress and the Government. We are not doing so merely out of response to direction or audit, but because we care earnestly about the quality and performance of equipment we are providing to the men and women in the armed services.

We also care as taxpayers. The people employed in the defense industry are loyal, decent, dedicated, hard-working, and honest citizens. The fact that we are not perfect at all times and in all ways is merely a human failing.

I appreciate that your purpose in holding these hearings is to examine strengths and weaknesses of the process and not to hear a speech from me, but you should know that I have a severe prejudice.

I believe that the military-industrial system in this Nation works and works well. It is my opinion that together we field the most advanced systems, the most reliable systems, and the most cost-effective systems in the world.

STRENGTHS—PEOPLE

Strengths in the defense procurement system are evident in a number of important areas. While I have already taken note of the unique and visible role of the military officer, I believe that the defense procurement function is staffed with a large number of highly dedicated and competent civil service personnel.

Their task is large. Approximately $140 billion in expenditures and 15 million separate decisions annually. I am firmly convinced that most programs are handled well. The horror stories and Monday morning quarterback public denouncements do a huge injustice to the system as a whole.

It is popular to allege that growths in the cost of military tanks and airplanes indicate some form of system or procedural deficiency, but I cannot agree. The modern automobile produced in great numbers and under intense competition costs up to five times its counterpart of 30 years ago.

Incidentally, it still goes at about the same speed and requires about the same maintenance as its earlier version. Today's military equipment reflect today's value of the dollar, but more importantly, a gigantic increase in capability.

I am convinced that our Government buyers are dedicated to the acquisition of goods and services in an economic and efficient manner. This is not to say that we do not need support programs designed to improve the capabilities of procurement personnel.

We should strive to enhance the quality of people just as we strive to improve the quality of purchased goods. The process for ensuring quality in all of our resources and products should never end.

ETHICS

Never in the history of the world have such great wealth and resources been spent with so little actual fraud. Given the vast sums of funds expended by the Government in the acquisition of needed goods and services, given the volume and diversity of goods and services acquired, given the tens of thousands of vendors and the tens of thousands of contracting personnel, there is relatively little fraud, waste, and/or abuse.

While any fraud, waste or abuse, per se, is too much, we must recognize the values as well as the risks of decentralization, discretionary authority, management flexibility, and responsiveness alongside the stifling effects of a zero-defects mentality.

It would be far more costly from every perspective to have a system free of all human failings which is nonresponsive, inefficient, ineffective, unimaginative, and costly merely to avoid the isolated embarrassing examples.

For every diode procured at $110, over 100,000 were procured for 4¢; for every hammer bought at $365, over 3,000 were bought at less than $7. This is the other side of the coin and it should not be ignored.

Excessive concern and disproportionate criticism discredit the excellent work being performed by both Government and industry personnel and weakens the very institutions of our Nation that we are trying to preserve.

I urge the Congress to take note of this problem and seek ways to capitalize on the basic honesty and integrity of our citizens while lessening the propensity to criticize.

PERFORMANCE

The U.S. designed and manufactured military hardware is unquestionably the best in the world, taken as a whole. We lead the world in technology and in the performance capabilities of our weapon systems. This fact speaks well for our procurement system.

In contrast, I know of no other procurement system in the world that encourages the innovative thought, the design capabilities, and the ingenuous abilities of mankind the way that the U.S. procurement system does.

Among high quality systems, we at Martin Marietta can cite with special pride:

Three hundred and one Titan missile launchings with only one problem spanning a 17-year period of time.

Two interplanetary, unmanned Viking spacecraft that landed on Mars and functioned perfectly for periods far exceeding contractual requirements.

Production of external tanks for the Space Shuttle, all under cost, ahead of schedule with perfect performance.

The Manned Maneuvering Unit which has performed flawlessly adds another dimension to the Space Shuttle.

And the manufacture of high-quality electro-optical devices, communications systems, navigation systems, aircraft components, and missiles for our defense forces.

It speaks well for a portion of our procurement system.

I, once again, urge Congress to be cautious in its efforts to reform the procurement process lest it kill the goose that lays the golden egg. Overregulation and overcontrol can literally stifle the initiatives and incentives that have driven the process successfully for many years.

OVERSIGHT

I believe that Congress has played and can continue to play a valuable role in overseeing the procurement process. As humans, we all perform better when we know that we are being watched and that our transgressions as well as our achievements will not go unnoticed.

The Congress does help to perform that role in the American system. An oversight function is essential.

The problem that the procurement system experiences, however, is not too much oversight, but too much micromanagement. In 1983, Defense Department witnesses testified on the 1984 budget before 96 committees and subcommittees; 1,306 witnesses provided 2,160 hours of testimony.

These redundant hearings are time consuming for both Defense management and for the Congress. I strongly recommend that Congress apply good business management principles to its responsibilities for the Defense procurement system.

WEAKNESSES—OVERREGULATION

I have observed the procurement process for many years, as I earlier noted. One phenomenon that I have observed and have constantly decried is the tendency of Government to attempt to correct problems with new regulations. This is not only true of executive branch agencies, but also of the Congress itself.

There appears to be a belief that we can legislate and regulate improved management techniques and procedures. I am convinced that for the most part they do more harm than good. Management systems become less flexible; people are intimidated and hence less inclined to pursue alternative courses of action; industry firms, especially small businesses, are deterred from seeking Government business; many able managers seek less demanding and less frustrating endeavors.

It is hard for me to believe that any Member of Congress would champion new legislation in the Government procurement area, unless it were intended to cover broad system concepts, if that Member had actually worked in a procurement office and tried to make the plethora or rules and regulations work efficiently and effectively.

In recent years, we have added to this highly structured business process a large number of inspectors including agency IG's, internal auditors, contract auditors, and the GAO.

The effects of overregulation and overinspection are stultifying. It inhibits initiative, and it fosters an overly cautious approach to management. Few businesses in the private, commercial sector could afford to operate the way the Government does by choice.

FUNDING

The most destablizing effect on procurement of major weapon systems is the annual budget process. Congressional committees, the military departments, and industry firms are constantly caught up in this process. There is great uncertainty in many cases regarding program authorizations and funding levels.

This affects capital investment, planning and efficiencies in production, and it encourages the stretchout of programs at inefficient production rates. This is most entirely a responsibility of the Congress and should receive priority attention in any effort that Congress makes to improve the Defense Procurement System.

PROCUREMENT CAREER SYSTEM

I earlier commented on the intelligence and dedication of Government procurement personnel; however, I believe that much needs to be done to enhance the career of this professional work force. Although they are responsible for large public expenditures—$140 billion annually in the Department of Defense—there is a tendency to treat this function on a clerical basis.

It is my understanding that Defense buying organizations are experiencing difficulties in hiring college-trained, entry-level people, and that they are having problems in retaining them in their work force.

We all recognize that good people are essential to a well run, efficient organization. Procurement is certainly no exception. It appears, however, that the Department of Defense is experiencing problems in this area that are contributing to a fundamental weakness in the procurement process.

However well articulated, procurement policy reforms must ultimately be implemented if they are to accomplish their intended purpose. The need for good people with the proper skills and in adequate numbers is absolutely clear to all who have looked at this subject.

SUMMARY

I am happy to testify before this special task force because I so strongly believe that the Department of Defense is providing for the security of our Nation. I am proud of the work that we do as defense contractors. We clearly are a part of a remarkable team of military, civilian, and industry people dedicated to the defense and maintenance of the basic human freedoms that are so important to mankind and without which we would not be here today.

I believe that the Defense Procurement System is in good hands. I also recognize the reasons for your interest in examining the system and making changes as you consider necessary.

However, if Government, either by design or by overeaction, dismisses the need for consensus in the formulation of the rules and regulations by which it transacts business, it will erode the very essence of what has made this country great.

It is our industrial base and not our rhetoric which contributes to the strength of the Western World. Entering into the military industrial base is a conscious and voluntary act on the part of the seller to the Defense establishment.

If doing business is made punitive, if Government intimidates, if duress substitutes for fair dealings, the long-term consequences will weaken our defense posture, our technology, and our economy. A balance must be struck. To do that requires understanding and reasonableness.

RECOMMENDATIONS

Congress must take the lead in an objective assessment of the Defense Procurement System. Consideration should be given to the effects of its own role on the process.

Therefore, it is recommended that you:

Not try to correct problems of recent congressional perceptions on matters like quality assurance, spare parts buying, warranties, data rights, and renegotiation through new legislation.

Designate a Procurement Oversight Committee and reduce the politicization of the procurement process through multiple committees with tangential and parochial interests.

Develop multiyear budgets for major weapons systems.

Strengthen the procurement career work force.

CONCLUSION

I am recently informed of this panel's proposed agenda for the coming months and of your reported hope that this panel will evolve into a standing subcommittee of the Senate Armed Services Committee.

I share that hope for I believe it will serve to ensure a reasoned, professional, and stable oversight of the DOD acquisition process which will treat all of the issues in a balanced and coordinated fashion.

I also believe your proposed agenda suggests a necessary insight into some of the more fundamental issues and offers the real promise of treating the root cause rather than the symptoms.

It is not enough that Congress act with dispatch; it must also act through knowledge and understanding and with a sense of awareness for competing priorities and consequential effects.

I commend you for your strong sense of public duty and for your commitment to fairness.

I appreciate the opportunity to testify before this committee and will be happy to answer, to the best of my ability, any questions that you would like to ask.

Senator QUAYLE. Thank you very much.

The committee will observe the 10-minute rule.

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First of all, I think there are a couple of themes that both of you have hit upon.

One, that you stress and urge the cooperation and partnership effort that Mr. Anderson referred to as a triad, that we need to work together in a consensus-oriented fashion.

I certainly agree. That is one of the reasons that we have had a number of hearings in the past on this procurement issue. You have talked today about the response that Congress made in the procurement area, particularly last year in the legislation that was passed.

Yesterday the Secretary of Defense responded even further with the announcement of a new Assistant Secretary for Acquisitions and Logistics. The whole area of procurement is becoming much more of a focal point of the Armed Services Committee as well.

Senator Goldwater has indicated he wants to make the Task Force Subcommittee on Defense Acquisition a permanent subcommittee. Senator Tower recognized last year the growing concern of all in trying to develop efficiency in the system.

Another thing that both of you projected that is very much of a cautionary note to both of us here is suggesting that we have more oversight and not a lot of new legislation.

I think there is a certain role in that oversight that is exceedingly important and Congress does not do a very good job on oversight. That is another reason that I and other Senators have pushed for a 2-year budget process to give us time to conduct oversight.

We are on an annual budget, not only in Defense. Basically it is an annual budget process and there is not time to crunch numbers. We will crunch numbers for the first several months not only in defense, but nondefense.

I think it also is a subliminal message you may be saying and I would like each of you to respond. Oversight is important, but when you say a cautionary note on legislation, are you in effect saying perhaps the legislation that has been passed, particularly in the last 24 months, is not necessarily legislation that is going to enhance the efficiency of the acquisition cycle and the procurement process?

Am I reading too much into that or not?

Mr. Anderson, do you want to go first?

Mr. ANDERSON. I cited one instance in my prepared testimony which has to do with the director of test and evaluation. This is a very real one. They have not been able to find one yet because of the fact that they are not sure they can define his job and how he is going to interact.

His function is one which I think is so clearly the responsibility of the program manager and the contractor to figure out what tests are required for the particular vehicle. Nobody knows better than they do.

These military program managers that we have are more and more becoming very expert in their fields. They have the educational background, they study the system that they are the program manger of, and they, together with the contractor, usually can come up with a very good test program.

It does not always work because we are dealing in the far out, in new technology. Sometimes the test program will have to be

amended. They will amend it when they find out through the development process where the test program needs change.

So, why have a new independent test director to detract from their job? It will take more bureaucracy, it is more costly, and it is going to delay the program.

That is one example that I would point out to you and I think it is a very real one.

Another one is the case of warranties. When the legislation was being considered it sounded like the industry was against warranties. We are not against warranties, but when we have a warranty, we want to be in control of the design of the product. That was the main thing that we were after in all this warranty hubbub that went on.

My gosh, we will warrant things—I don't think everybody knows the degree that we warrant. For example, when we launch satellites, and we have launched a lot of them (we have launched half of them in the United States). Most of them you don't hear about because they are classified, but when we launch satellites for the various projects that we are doing for the military, we have warranties on those satellites that they have to perform a certain length of time or we are penalized very severely.

Our profits or fees can go from 12 percent to 14 percent, whatever they may be, down to zero if we don't perform.

What has it done? It has incentivized our people to do the best technical job they can and it has worked.

The obvious effect of its working is that now our satellites can be up there for much longer periods of time and as a result, we have to launch fewer of them at less cost. That is a warranty that really means something.

So, when we talk about legislation, when we talk about warranties, for example, let us be sure that we carefully define what we really want to work and how it is going to work and let us not just pass legislation that has to be amended or has to be worked around as far as the military is concerned.

That is what I am talking about, Senator.

Senator QUAYLE. Is the present legislation on warranties——

Mr. ANDERSON. It is OK now. It has been modified and I think you had quite a bit to do with it. It is okay, we can work with it now. To start with, it wasn't.

Senator QUAYLE. Are you in effect telling us that the legislation that has been passed in recent times is not terribly effective as far as getting to the goals that we want and that is more efficiency?

Mr. POWNALL. I think, Mr. Chairman, I am sympathetic to what Mr. Anderson just said to you. I am convinced in my own mind that the system is burdened by too much red tape.

Lead times are much longer than I think they should be. I believe we are burdened by audits, as I mentioned in my prepared statement. It is not uncommon for us to be visited by 15 or 20 independent auditing-type employees in one plant in a day.

Every person who comes to our facilities, whether he is from the Congress or GAO or the inspector general, has to be teamed with maybe two times as many people in our own plant to provide the date and information.

It is exceedingly time consuming. It takes our eye off the ball for a short period of time. We love the customer and we work hard for him. I think that the system is inhibited. I think there is not enough authority vested in program managers on the Government side.

I think Mr. Anderson referred to it a moment ago when he compared the work that is done in the unclassified area with that that is classified. There is a definite difference in the way we get the jobs done in those two different areas.

We don't violate any laws in one as opposed to the other. It is simply that we have a more direct line of responsibility and authority in one than we do in the other.

I believe that the committee should look very carefully at some of the best programs and determine in your own mind whether the legislation has become more burdensome than it should have been. I think you will make discoveries.

Senator QUAYLE. Mr. Anderson talked about incentivizing.

What other areas would you suggest we examine so far as possibilities of impediments in the process?

Are you looking at the inspector general, DCAA? What are we talking about here? What are the specific areas that we ought to examine?

Mr. POWNALL. I think we overreacted to problems that have become more public in more recent times than has ever been typical. There are all kinds of exaggerated cases of waste and abuse that have gotten a lot of public attention, far more than it has deserved and has created a very chaotic circumstance.

We have been in meetings in the Pentagon and in other areas addressing spare parts ad nauseum and quality as though we never understood quality. Every time we have a meeting on quality it is an indication, it seems to me, that some people think that there is none.

I am satisifed that we have better quality equipment now than we probably ever had in the whole system of our working with the Department of Defense.

Senator QUAYLE. On the quality assurance issue there have been problems in this area with companies. We had a hearing here in this subcommittee and I was quite shocked at some of the testimony where quality assurance was not a high priority. I just assumed that it was a high priority. But things that were drivers were production schedules, the costs, the accounting; and quality assurance was not important.

These are industry people and these were DOD people. I was left with the distinct message as far as I was concerned that quality assurance was not important. I think there are some problems that you have to examine.

I am not saying there is a legislative remedy necessarily, but I do believe there are some quality assurance problems. I think these things ought to be surfaced.

I think when there are quality assurance problems that are detected, that there is basically going to be dependence upon those that created the inefficiency of lack or quality to make those repairs. I think that we can only expect the best to go out to the people.

You both referred to giving these program managers more authority. Maybe I should explore that. I would be interested in what you are talking about with regard to giving the porgram managers more authority.

I agree with you, Mr. Pownall, on the career officers. I am very interested in the suggestion about the career paths of these procurement people, that they find a direct way that they can get to the top by staying in the management field within the services.

I think there is a feeling out there that they have to serve at least half the time in the field to be an effective program manager. I don't think that is necessarily true.

I am sure they want them to have firsthand experience and good military background, but we ought to gear that more to business management and show a clear line to the top as far as reserving some of the flag and general officers for procurement people.

I think what the Secretary did yesterday is what the Congress is interested in. The procurement and acquisition cycle will be far more of an interest to all of us and we need to develop a consensus on partnership that you spoke to.

Senator Levin?

Senator LEVIN. Thank you, Mr. Chairman, and welcome, gentlemen. It is very helpful to have you here giving us your perspective on what we do or don't do, how many times we create problems in trying to solve them and how the redtape looks to you and from your perspective.

From our perspective of spending the people's money we want to do it wisely.

You indicated we have too many auditors. We are told by the auditing people that for every auditor we have we save 10 times his or her salary. It is a very different perspective, let me tell you.

I think one of you mentioned we have too many auditors. How do you answer the argument that every time we add an auditor, we can prove that that auditor will pick up 5 times or 10 times or 50 times, whatever it is, his or her salary?

Mr. ANDERSON. I didn't say we had too many. I said we have too many different auditing agencies.

In the Department of Defense at the present time we have the auditor generals of each of the services. We have the DCAA, Defense Contract Audit Agency. Now we have the IG unit. On top of that you have your audit function which is the GAO. Well, there are four agencies in this whole situation.

We have an internal audit in industry and then we have an outside audit agency, a public accounting firm. That is it, two.

When you really come down to it, it could be simplified. That is what I am talking about, not numbers of people. I don't know exactly how many people they have added in the audit function. I have heard some numbers which surprise me, the 1,200 or so in the IG group that has been added. I have heard of a substantial number that has been added for looking at spares.

I am not talking numbers.

Senator LEVIN. Different functions?

Mr. ANDERSON. Exactly. I think they could be combined. I think it would be much easier on everybody and they would get their job done better. That is my whole theme.

I guess I am repeating, but we get through with one audit and immediately here comes another one wanting to look at the same thing.

Senator LEVIN. Usually a different part of the same contract?

Mr. ANDERSON. Yes; sometimes they look at the same thing over and over again. They want to find out if this guy did his job right in the audit function.

It is not necessary. We ought to take a look at streamlining, too.

Senator LEVIN. We do have a couple branches that are involved and that is the way our Government was set up and those audits come, to some extent, from different branches. I am not sure what the answer to that is.

From your perspective it is a duplication of audit. From our perspective it is to make sure we get not only value and quality from you folks, but that our executives are doing the job as well.

Congress is given that function of oversight and that means we will not rely on the executive audit. We will have our own audit agency look over this.

How you answer that from a constitutional viewpoint, I don't know. From your perspective I understand the grief you go through, with two, four, six auditors instead of one or two auditors. I appreciate your perception of it. Part of it is a constitutional question.

Mr. ANDERSON. I don't want to give the impression we don't want auditors. We have to have auditors.

Mr. POWNALL. I would like to make an additional comment on that. I don't think this is unlike what happens elsewhere in industry. All the auditors take credit for all the savings. There is the suggestion if there were not an auditor, the same event would not have been discovered.

I just can't accept that at face value. The same thing happens in the company with which I am associated. If I added up all the savings that were allegedly made by our Tax Department and our Treasury Department and a few other departments, our earnings per share would be advanced by at least $5 every year.

You know, they are all taking credit for something that everybody is working on. I sincerely believe that we have too many audits and too many auditors.

Senator LEVIN. I would like to talk to you about the revolving door issue, another perception which is very different, it seems to me, from our perspective, from the public's perspective and from your perspective.

I gather Mr. Anderson testified, and I was not here for the testimony, I may be wrong, but I gather that he is concerned about a stronger revolving door law. I have not had a chance to read your testimony either. I don't know if that is in the written portion of it or your oral comments this morning.

In any event, I am very much in favor of a stronger revolving door law and I would like to talk to you about it briefly.

We have a situation where people who are representing the taxpayers of this country as program managers or as plant representives and are supposed to be working on the other side of the table from you folks in an arms' length way, negotiating for the Government, perfectly legitimate, two parties to a transaction, but sup-

posed to be getting the best deal possible for us, the taxpayers, and you have your folks on your side of the table, trying to get a reasonable return for you.

Then we end up with a lot of our people working in the very companies that they have been negotiating with for many, many years on the other side of the table.

That creates an appearance problem. I think most people would say that is an appearance problem. It may be it is not a reality problem, but an appearance problem.

If somebody thinks they might get a job with a company they are supposed to be negotiating with, subconsciously or otherwise that person may behave differently, at least there is an appearance that that person may behave differently.

If there is a pattern that our people representing taxpayers end up on your payroll, I think it is a problem. Maybe it is only an appearance problem. I think it is more than that. I think subconsciously there is reality there.

So, we say they can't come back and negotiate for industry with the Government on the same project that they had dealings with on behalf of Government. We have a law which says that. But we still end up seeing them in the shops of the industry that they have been negotiating with.

Is there a perceived benefit that a program manager or a plant representative subconsciously might think, my God, if he gives you a little break on this contract, if he is not so hard-headed on this contract, maybe when he retires next year—or do you think that is not real at all, you are shaking your head, Mr. Pownall.

Is it an appearance problem?

Mr. POWNALL. I think sometimes it is an appearance problem. In fact, I say that anyone we have hired who has served either as a civilian or a military person in the Department of Defense has brought to us a talent that we needed.

These are some of the best people in the country. It would be just a shame to lose them when they have reached a point where they are either shut off from further promotion or where they have been in for 10 or 12 years and have decided against continuing.

They are disciplined, understanding, knowledgeable, good people. We don't make a habit of hiring people who can't contribute.

Senator LEVIN. I know from your perspective it is a terrific buy. I am talking about our perspective, giving folks their knowledge immediately, in effect, to companies that they have been negotiating against on the other side of the table.

There is a duty here. If I have a representative on this side of the table, and next year I see him on the other side of the table, and of course I know he can't be there, he can't actually lobby on the same issue, but he can share his information, can't he?

Can't he share all that information?

Mr. POWNALL. Of course he can. But that is public information anyway. The Freedom of Information Act will get you that.

Senator LEVIN. Not necessarily strategy. Strategy not in writing necessarily. The inside workings are not all in writing.

Mr. ANDERSON. What information is he going to share that will be detrimental?

Senator LEVIN. I don't know, but I would hope that the process of negotiating a contract has a little bit of intuition to it, strategy to it. I think there is.

Seeing that person negotiating for the taxpayer ending up in the same company with whom he has negotiated, I think creates a problem. You say he can't come back and lobby us, but that is very limited.

Mr. ANDERSON. We have a rule in our company that when we take somebody from the military or civilian side, we don't let him work on the particular program that he was involved in.

Senator LEVIN. Why is that?

Mr. ANDERSON. Well, we just want to protect him and we want to protect ourselves. We have that rule. We follow it religiously.

Senator LEVIN. Do all companies do that?

Mr. ANDERSON. I am not sure. I just know what we do.

The other thing we find is this. I would guess it is just a very few that cause the problem. Most of the folks that come in to us or we seek have very high principles and, by gosh, they guard against it very assiduously.

As Tom said, they have a lot to contribute. Whether they are on the Government side or the contractor's side, the whole point is, as I mentioned, we are sort of in a partnership whether we like to call it that or not.

Our business is to try to produce and get the best system out to our customer in the shortest time possible and at the lowest cost. If they can contribute to that, I think it is a shame not to use them.

Now, the point I was making specifically is some proposed legislation that I understand may be introduced—whether it will or not, I don't know—which will say that anybody who worked in the procurement system in the Government could not go to industry for 5 years, something like that.

The part that I am most concerned about is that the Department of Defense needs civilians, for example, to come in in some of the high level positions, and if that is ever passed as a law, you won't find any civilians from industry coming into the Department of Defense because their career is stopped, they won't be able to go back to that industry for 5 years, the way I understand this thing is being couched.

It may not come before the Congress and I hope it doesn't. We just mention that so that you folks will be very much on guard.

Now, that would just stop the flow of talent into the Department of Defense; and we think and the military thinks and the Department of Defense thinks that they should have access to that kind of talent.

Senator LEVIN. My time is up.

There is a House bill similar to that. What I have in mind is somewhat narrower than that.

Senator QUAYLE. Senator Wilson?

Senator WILSON. Thank you, Mr. Chairman.

I will begin with two comments.

The first, I think, at least offers the hope that good will be on its way in response to the point that both witnesses have made this morning about the duplication not only of audits but oversight on the Hill.

Our chairman of this task force, Senator Quayle, has also had the responsibility of chairing another task force that had as its objective the reform of the proliferation of subcommittees and committees.

The Senate has not yet taken action on the recommendation of his subcommittee, but I think it goes in the direction of trying to cut down on the kind of thing that you are complaining of now.

In my view, the establishment of the task force as a permanent body, I would hope, would have the effect that you also hope it will.

My second comment relates to the point that has been made with regard to the independent director of test and evaluation. Playing the devil's advocate, the response to the point you have made would be that you need some kind of independence in order to overcome what might be conflict of interest on the part of the program manager within the military in particular.

This point has been raised. I don't know that it is legitimate, but the argument that is made is that the program manager has an incentive to be a little less than objective as opposed to independent critics because his advancement, his career advancement, his promotion perhaps depends on expeditious discharge of his responsibilities.

I think we ought to say to those who make that argument, all right, let us have some evidence that it is true. In my view, that argument applies with equal force to an ambitious auditor.

Is there not conflict of interest there? It seems to me that there may be some who are so eager to ferret out things to advance their career or even a philosophy, that they may be suspect.

What I am saying is that I don't think we can afford to be academic about this or take on faith the arguments that are advanced in favor of "independence" because the independence may be costing us a great deal.

Let me put a proposition to both of you. It seems, though this may be oversimplifying it slightly, taxpayers and, therefore, we as their respresentatives and you have two basic concerns in providing weaponry.

One is cost. The other is quality.

Is it too simple a proposition to say that with warranties that require you to perform according to performance specifications, that we really do not need all these intermediate checks, all these steps that presumably are lengthening the process and that if our concern is cost; what we really need to do is to assure that you have competition, that there is not sole sourcing because what we are looking for is essentially the best weapons possible, at least commensurate with the needs of the mission at the lowest cost possible consistent with quality?

Perhaps what we could do is ignore your suggestion, Mr. Pownall, the first one, which seems to me expresses an ultimate despair about Congress' ability to reform its own misdeeds.

If I understand what you say, you recommend not to try to correct problems of recent congressional perception, or don't make it worse.

What I am suggesting to you is that maybe we should look at what Congress has done and the regulations DOD has adopted pursuant to our efforts to try to simplify the whole thing and say there

will be competition to assure that we get the best for the money and that we also rely heavily on the warranty rather than a myriad of intermediate checks.

Mr. POWNALL. That is a posibility, Senator Wilson.

There is, in my opinion, adequate competition. There is no competition as severe or as plentiful, in my experience with the commercial world, as there is in this business. It is absolutely brutal.

Mr. Anderson and I often compare notes after competition to tell each other how brutal it actually was. Sometimes we win, sometimes somebody else wins.

It is not unusual to have 15 or 20 bidders at a bidders' conference. It is peeled off until finally there are four, five or six, maybe three or only two who are competent to engage in it. I think the Department of Defense has, in my opinion, adequate competition.

Warranties are an agreeable way to conduct business in certain circumstances.

Senator WILSON. In the circumstances where you are able to say we know what it is you want us to do and, therefore, we can warrant that. I gather the difficulty you have is a situation where we are really asking the contractor to venture out on the far horizon of knowledge as to what he can do?

Mr. POWNALL. Affirmative. That is very difficult. It is almost imposible in some cases where we are almost beyond the state of the art in order to accomplish the real objective. The objective is understood, but the mechanism by which we get there is not that clearly known.

We can only vaguely estimate perhaps what the cost might be, much less what the result will be. So, we do have to be very careful about how we do it, otherwise, you can bet your company and the next year you may be looking for a new job somewhere.

Senator WILSON. I gather that the vast majority of warranties that we are talking about don't fall in that category, they fall in the category of the known.

Mr. Chairman, I suggest that because every member of this subcommittee is cleared, that we really pursue the example and any others like it that Mr. Anderson has provided because I think it is fascinating that the "Skunk Works" project was able to produce something in two-thirds the time at two-thirds of the cost.

That suggests maybe we are overdoing the independent auditing, that there is too much duplication of effort. That is why I am making the suggestion that if we can get a warranty and make this warranty system work, we can enforce quality control and save a great deal of time, effort and money.

Senator QUAYLE. I think that the key question here is how are we going to not only get more efficiency, but also with the caveat that we are interested in holding down cost.

You hold down cost by shortening the acquisition cycle. Both of our witnesses talked about giving more authority to program managers. In a classified program, the program manager has more authority than in a nonclassified program.

How do we get that? I would imagine there might be more of an interest in legislation if in fact the goal was to go out and clear some of the underbrush talked about in these years in the so-called name of micromanagement.

This is where the Armed Services Committee has not gotten involved, but the subcommittee will. Where should we go in the area of procurement?

Maybe we should go back and clear out some of that thicket of regulations and bureaucracy.

Senator WILSON. I think, Mr. Chairman, we should undertake that as one of the objectives, micromanagement, largely because of DOD regulations pursuant to our legislation. We should pay greater attention to the complaints we have heard this morning.

The other comment I have is that I am intrigued by what Mr. Anderson has suggested is the way they deal with this problem of conflict of interest with people returning to industry from Government.

It makes sense to me that we may very well cut the Department of Defense off from talent if we make the return to industry completely onerous. It strikes me that he has perhaps provided us with an interesting means of avoiding that.

They can return to industy provided they are not involved in the same program, provided that they are not in a position to avail themselves of whatever advantage may be presumed from their prior association.

So, I would suggest then, Mr. Chairman, that we pursue both of those things. I think they would be worthy objectives and well worth our time.

Thank you.

Senator QUAYLE. I might tell the Senator and the whole committee that we have tentatively scheduled, because we have not fully organized, five hearing dates in March. I hope that all of you here will return as subcommittee members as we try to get some continuity on the subject.

Senator Bingaman?

Senator BINGAMAN. Thank you very much.

Let me ask a question or two on the DOD program managers. I think both of you have indicated that we have some very impressive people in those positions and that they need to be given even more authority.

Would you also advise that we build in more accountability for failures in the programs that they are managing and that their careers be adversely impacted if they wind up managing a program that comes in over cost, under performance and with other problems?

Mr. ANDERSON. I think you can't just hold the program manager, himself, accountable. You have to hold the contractor accountable. Sometimes the program manager may not be the cause of it. It may be the contractor. I would not want to see him penalized if it is the contractor who is responsible.

Somebody talked about quality a minute ago, about some examples of poor quality. That is among the responsibilities of the contractor's shop. If he has that going on, it is up to him to fix it.

If there is cost attached to it because of his shortcomings, he ought to pay for it. I believe that very strongly.

Senator BINGAMAN. I agree with that. But if the program manager has not identified the deficiency and called it to the attention of the proper people so that the contract could be enforced or neces-

sary remedies taken, then you would, I gather, agree that some degree of accountability is necessary?

Mr. ANDERSON. Yes, sir, I do. I think that forces performance in the final analysis when they know they are going to be held accountable.

Senator BINGAMAN. Do either of you know of examples where DOD program managers have had their careers adversely impacted because of inadequate performance in the programs they were managing?

Mr. POWNALL. Unfortunately, I think it often happens. I don't know that it should. I think it happens that an officer assigned to a program that turns out poorly is criticized and not demoted perhaps, but maybe not promoted on schedule or maybe not ever promoted again.

My attitude about that is that in most cases the program manager is a strong, capable, articulate, knowledgeable, bright guy with some experience. He knows how to get around the system and how to make the system function on behalf of that project.

A less talented person is not as effective. They can be strong or weak. In most cases they did not sign on to be program manager, in any case.

I take some colonel who just came out of the infantry. Because he was very smart there on ordnance vehicles, making him a program manager does not necessarily guarantee you have a success on your hands. He is a good infantry officer, it would be a shame to lose him or to negate his opportunity to serve because he has not done an outstanding job on some program.

Senator BINGAMAN. Let me ask this question along those lines.

David Packard testified to the Armed Services Committee a little over a year ago and suggested that a possible solution was to set up two completely separate career paths so that you didn't have colonels coming in from the field and becoming program managers, but you had people deciding when they went into the service whether they were going to be on the management side of DOD or whether they were going to be on the combat side of things.

What is your reaction to that? Does that make sense?

Mr. POWNALL. It makes sense, but I don't think that it is going to add much.

Senator BINGAMAN. You don't think that the shifting of people in from the field for 2 years to manage a program and then out to operate a part of the fleet and then back is a problem in the confidence that we have and the performance we get out of our program managers?

Mr. POWNALL. I actually do not. I could be corrected on that by somebody who has had some experience both ways.

If you were to do that, why take an officer at all? Why not just populate it with civilian program managers who will manage the system?

Senator BINGAMAN. Do you think that would be preferable to the arrangement we have now?

Mr. POWNALL. No, I do not. I absolutely do not.

Mr. ANDERSON. Senator, I was talking to one of the services—a high ranking officer—the other day. He says there is a gradual trend within the military itself that the program managers are

spending more time in each program and they are tending to stay in that line of business more and more. There is a trend that way.

I think that that is an area that they are going to work with, and I think they will probably solve it themselves to get the particular result that you are talking about. Maybe not wholly, but to some degree.

But I want to complement what Tom says, when I say accountability of the program manager when a program doesn't work right—in more times than not it is usually the contractor's responsibility.

Would you agree with me on that?

Mr. POWNALL. Absolutely.

Mr. ANDERSON. There are times, however—and this is the area where I talk about accountability—where you will run into a program manager, he can be civilian or military, who is so inflexible that he will not deal with problems, he will just go by the book.

That kind of program manager can really stop a program, and it has happened in the past. Those are the ones I am talking about who don't do their job. The thing that we plead for, in many cases, is to give the program manager flexibility where he can deal with the day-to-day problems because if you are in a development program that is reaching far out, you can't always anticipate the problems you are going to run into.

If you have a program manager there who is flexible, and the contractor is flexible, they are going to work the problem out.

We have had instances where a problem has cropped up, and it tends to be sometimes in classified areas, and people will hop to it—it won't be publicized—people will hop to it and they will work it out.

Every year you have cases like that. My gosh, you get people involved and they solve the problem; they work 12, 14, 15 hours a day, they don't worry about time, their objective is to solve the problem.

That is the kind of thing we want to foster more and more.

Senator BINGAMAN. Let me just shift to a different issue.

We are also advised here—and I guess I have come to believe it in the last 2 years I have been here—that one of our problems in the Defense area is that we start too many programs and, therefore, we don't have enough money to fund them all fully, we wind up cutting back and producing 6 of these aircraft and 12 of these and the efficiency is way down on the number of craft we are buying.

How do we fix that problem, in your opinion? Is the problem that the Defense Department estimates in the out years way too large a budget?

I notice that this year they are estimating we are going to have over 10 percent increase in 1987 and another 10 percent increase in 1988 regardless of what we do this year. That is not realistic.

I assume you people know that. I assure you everyone in the Congress knows that.

Is that part of the problem? What is the fix to this situation of getting too many programs started and not being able to fund them all?

Mr. ANDERSON. I think there is a natural tendency on the part of the contractor and also on the part of the Department of Defense sometimes to want to start a program because it looks good and they see a real need for it, and then downstream they find out that really the total budget has burgeoned to such an extent that they can't do all the programs.

I think it is a joint responsibility of the Department of Defense and the contractor to more accurately project downstream costs of all their programs.

Then I think it is the responsibility of the Department of Defense to pull together the totality of these programs and really carefully budget downstream, giving accurate or as reasonably accurate projections for inflation or other things that might happen, to really see where they are going in terms of total cost, to see whether it is at all affordable within our Gross National Product or whatever measures that the Congress and the administration may use.

If they can't do a program within the guidelines that appear to hold for downstream, then they have to prune the programs at the start or stop some programs that really don't have a purpose. Let us not start a lot of programs and then start cutting them downstream when we finally face reality. Let us try to face reality at the inception.

I think we can both do a better job, industry in more accurately portraying downstream costs and the Department of Defense in really looking at all of their programs and trying to project realistically what those downstream costs are.

Senator QUAYLE. Let us take a second round of 5 minutes each.

In looking at trying to get a handle on those downstream costs, design, stability, control, at what point in the acquisition cycle can we get good hard core information on costs and when can we stop changing the design?

At what point in the acquisition cycle should we try to in fact do that?

Right now it is fluid. Some say you have to get into full-scale engineering, you have to get into production, before you get good numbers.

Others say after you go through the concept phase, you go through DSARC–I, maybe you can get it there before DSARC–II.

I am curious. I have heard a lot of discussion about this issue and I tend to be in agreement with it. We should focus on the front end of our acquisition cycle, front end meaning before we get to even full-scale engineering and certainly before we get to initial production we should focus on that and get more organization, maybe flexibility, understanding what this system, what this program is going to do, what it is going to cost, what its design is going to be.

How can we focus in on that front end of the system to get a better handle on where we want to go?

Mr. POWNALL. I think it is very difficult to be absolutely certain of the runout costs until you have gotten into engineering development some distance.

I think we can benchmark programs better than we do. There are all kinds of mechanisms that we are using. We are using fixed price now as one of the more favored ways of handling these kinds of problems.

Senator QUAYLE. At what point in the acquisition cycle do you think as a general rule we can get that fixed price?

Mr. POWNALL. You can get it whenever you insist on it, it seems to me, almost.

Senator QUAYLE. That is fair enough. I wrote that down. I like that.

Mr. POWNALL. But the risks are absolutely enormous. I must say that we are really out on a limb in that category in a number of programs that are outrageously risky, almost outrageously risky.

I believe that you have to have a first round of inspection someplace along the line. When you get that, you are probably in a position then to know that the article is reasonably satisfactory and some knowledge as to what it would take to correct any inefficiencies that are discovered.

These things run out many, many years. We are talking 5, 6, 7, 8, 9 years in successive fixed-price options. We don't know an awful lot of the world situation 8 years from now. When the contractor takes on that risk of fixed price, he can either make a lot of money or lose a lot of money.

I think costs, by and large, of military equipment have probably not exceeded the norm for other kinds of equipment in the commercial sector.

Senator QUAYLE. Let us switch from cost to design.

At what point in that acquisition cycle can we stop changing the design or should we?

I think one of the successful programs that has come in, that will be under cost, will be on schedule, and they didn't change the design, although there is a lot of discussion to do it, is the B-1B Program.

I think Mr. Carlucci stated he would spend $21.5 billion and not a dime more. People came in there with new technology on it, new avionics, new ECM. There is always a tendency to want the best, or by the time it gets off the production line it will be obsolete.

Certainly there are some breakthroughs, there is always an exception to that rule. There ought to be some point at which we ought to target and not change that design, whether it is a plane or a missile, or whatever it is.

Is there a rule of thumb that we can try to go by?

Mr. ANDERSON. I would like to propose something like this, Senator.

Normally you should be able to pretty well firm up your design when you are through full-scale engineering, development, and test. At that point if your test procedure or program is proper, you pretty well know what you have.

Then I think you ought to institute changes after that on a block basis primarily. In other words, after the first production run, however long that may be, how many units it may be, then you go into the block change. It is a lot cheaper to do it that way.

Then you get the advantage of any new technologies that might have come up or any new engineering knowledge that has come as a result of operational use of the unit.

They say never change it. I think that would be wrong because then what you will end up with is an attempt or need possibly of a new unit, a new program to incorporate all the new technologies.

I think many times we can take an existing equipment and update it, go through updates. At block points you can bring that equipment up to the latest technology and now have to start a new program. There is that point.

Now, with respect to being able to fix the price, I think that we are finding more and more, maybe not in the really far-out, highly sophisticated projects where you are not producing many units, but where you are producing many units you can phase into a fixed price after two or three lot buys; you can start phasing into a fixed price if your design is fairly frozen.

I think that is more and more the trend now.

We are putting in incentives that have to do with cost, that have to do with schedules, and also the performance that results from that. I think that is good because that is a spur to the contractor to do a good job to start with.

I, for one, and our company for one, encourage that sort of thing. We are not afraid of those.

Senator QUAYLE. Senator Levin?

Senator LEVIN. Thank you, Mr. Chairman.

First of all, let me comment on something that Senator Wilson said about competition and warranties. I think his point is very accurate.

If we bought everything competitively and had terrific warranties on everything we bought, it would take care of about 90 percent of our problems. Sixty percent of what we buy is not bought with competition.

Your competition you refer to is very rigorous in terms of whom we select as the contractor. From that point on we obviously have to make a decision who the contractor is and for the most part we start buying noncompetitive, once we make the decision about the contract.

In any event, 60 percent of our purchases are sole source. We have been trying to reduce that percentage. We have put a lot of pressure on DOD and they have been put under a lot of pressure internally to increase competition.

I think you should encourage as much competition as possible. Obviously, there are some areas you can't have competition.

I agree with what Senator Wilson said, that if we could increase competition and increase warranties legitimately, we can reduce some of the other problems we pile on you in terms of audits, and so forth.

Second, would you agree with the feeling I have that basically the Government has to represent the taxpayers, we can't rely on you fellows to do that, you are negotiating with us at arm's length, in essence?

Do you agree that is generally true, that your goals are to produce a good product and to maximize your profit? Is that a fair statement?

Mr. POWNALL. Certainly. We are also taxpayers.

Senator LEVIN. Of course. But your corporate goal is clear; it is not the same as the folks on the other side of the table. That is why there are two sides to a table.

Sometimes I think, frankly, that too many burdens are placed in terms of what we should expect of industry. I don't particularly

expect industry to protect the Treasury or taxpayers, not because you are bad guys, but it is not your goal.

Your goal is presumably to give a good product that you stand behind and at a profit.

I just want to make sure you agree that we have different goals on different sides of that table; they are not the same or else we would have a one-sided table, if that is possible.

I am not asking you to design a one-sided table. It may be possible.

Third, if I have the time, I want to talk about the incentive contract. How much incentive do they give you folks to meet those target costs?

What strikes me is if I were in business, there would be times I would rather have a bigger gross and a smaller net in order to meet fixed overhead costs which I am obligated to meet to keep the company going.

If that is true, that I would rather have a bigger gross and a smaller net, then the incentive contract may not work at all in those instances; in fact, it may work against it.

Could you comment on that? How often do you use incentive type contracts? Is it really an incentive or from a business perspective, are there many occasions when you will not worry about getting down to that target cost as much as you worry about keeping your shop going so that you will get another contract, so that you can meet your fixed overhead cost?

Mr. POWNALL. You are right. We do not regard profit as a four-letter word.

On the other hand, the profits negotiated in these contracts, any that I am familiar with, are modest by any standard.

I do not believe that we have two different approaches or two different points of view in the contract. We want the product to work. That is the No. 1 thing. Above all, that is what we want. We want the thing to function and function well. We hope to make a profit doing it. We do not always.

I can give you some outstanding examples of that also. We, nevertheless, do as well as we can to make the product function. I am not sure, Senator Levin, where you draw the line on incentive. Most contracts that are incentivized today are incentivized for a specific reason.

They are incentivized for a range objective or altitude objective or a cost objective or reliability objective. But you add up all the incentives that are in the contract and you are still back to the nominal rate.

That is the way you make a profit. It is not the way you make excessive profit. It is the way you make some profit.

Senator LEVIN. You say it is always to your interest to meet the target cost.

Mr. POWNALL. Absolutely, absolutely.

Senator LEVIN. From a business perspective?

Mr. POWNALL. Absolutely.

Mr. ANDERSON. To meet the target cost.

Could I answer that for just one second, Senator?

You know, there have been statements made from time to time that we in this industry don't worry about costs because if our costs are higher, we get a larger profit.

Senator LEVIN. That is the opposite of what I said.

Mr. ANDERSON. I want to make a comment on that and why it is important for us to meet target cost.

You know, our reputation with the Department of Defense or any customer depends on our ability to meet what we say we are going to meet. If we constantly overrun and don't really pay attention to cost, we get a reputation and then when the competition comes up for the next program, we are in difficulty.

Second, if we are lax in controlling costs and really watching our costs and we get out of line with our competition, then we are going to get hurt in the next go-around for the next program because we will be outbid.

So, there is a real drive on in the industry to be cost effective. The Department of Defense is stressing it. We are stressing it in our own company.

Senator LEVIN. What I was referring to is where you are still within the ceiling. It would seem to me from a business point of view, and obviously that is not my perspective or background, that there would be times when you would take a larger gross and smaller net profit in order to pay your fixed overhead, that you fellows are saying that is not true and that is fine.

That is why these hearings are useful, to check out these kinds of things.

On another subject, I am troubled by the advertising that I see coming out of industry. I don't know whom it is aimed at, whether it is aimed at the Congress or the public to buy particular products, or whatever it is, full-page ads in various publications by various companies.

Are the costs of those, and I would just ask you generally, maybe from your company's experience, are the costs of those ads costs for which you are reimbursed?

How do you pay for them?

Mr. POWNALL. Out of profit.

Senator LEVIN. You can track that?

Mr. POWNALL. Yes.

Mr. ANDERSON. Yes, sir; none of those are charged to the Government programs.

Senator LEVIN. Even the cost of your PR firms are not paid for by Government programs?

Mr. POWNALL. Absolutely not. It is not permissible.

Mr. ANDERSON. I don't say all PR costs are not charged, for we have certain PR costs that are employee communications.

Senator LEVIN. If a PR firm places that ad, that ad is deducted from that firm's cost which is passed along to us; is that fair?

Mr. ANDERSON. Say that again.

Mr. POWNALL. You had better believe it. It would be audited out in 10 seconds.

Senator LEVIN. I want to thank both of you.

Before the chairman officially gives you our collegial view on it, I want to tell you I think you have made a real contribution here this morning.

Senator QUAYLE. I do want to thank our witnesses, just to again recommunicate our interest in this issue.

We will be hearing from you and your peers later this year, not only at public hearings like this, but also through private communications that we have down certain avenues, so that we will have the developments that both of you pointed out. We have a consensus and partnership attitude on dealing with a very, very important issue and one that has really struck a much more responsive cord, not only within the Congress and the public at large, but also I think you can see a lot of room in the Department of Defense itself.

As a result of that, the triad you refer to is very important.

I thank you today for your very important contribution.

[Questions submitted to be answered for the record follow:]

QUESTIONS SUBMITTED BY SENATOR DAN QUAYLE

INSPECTOR GENERAL'S OFFICE

Senator QUAYLE. We have been made aware of some unspecified concerns that members of private industry have with respect to the Inspector General's Office.

Would you both share with the committee any specific concerns that you, as representative of private industry, have with the current operation of the Inspector General's Office?

Mr. ANDERSON. Although I have no significant first hand experience, I do know that a number of companies have concern about the operations of the DOD Inspector General's Office. The complaints generally have to do with duplication of the audit functions of other DOD agencies such as the Defense Contract Audit Agency, the Defense Contract Administration Service, and the Auditor General components of the individual military departments. Obviously duplication and rivalries among these audit components is a wasteful diversion of resources that could more prudently be utilized for other purposes. I am informed that in litigation currently pending, the Inspector General and the Justice Department have taken the position that the jurisdiction of the I.G. and of the DCAA is 100% co-extensive. If indeed this is the case, it is a dramatic illustration of the basis for the complaints that have been voiced. Although I am not competent to express a view on the legal issues involved, I believe I have had sufficient exposure to the acquisition and audit process over the years to express some thoughts on the way the system ought to operate. First, I believe that the traditional jurisdiction in the areas of costs, pricing, and verification of the adequacy of internal controls should rest exclusively with the Defense Contract Audit Agency. This agency has demonstrated over the years that it can and does perform a creditably high quality service in these areas. In the case of the DCAA auditor as much as in the case of an external auditor or an internal auditor of a defense contractor, it is of critical importance that the auditor feel free to express his views freely without fear of reprisals or second guessing. Superimposing the Inspector General organization over the DCAA function, whether by law or de facto, would almost certainly have a chilling effect on the autonomy and candor of DCAA auditors and a demoralizing impact on their professionalism.

The second point I would like to make with respect to the Inspector General operation has to do with the wide-spread concerns over misuse by the I.G. of his subpoena powers. My conception of the way the I.G. should operate in this respect would call for restraint in the use of the subpoena power and use of it only in support of bonafide investigations by the I.G. of potential criminal conduct or wrongdoing. The subpoena power in my judgment should never be used as a device for a fishing expedition or for purposes of intimidation. To the extent this may not be clear in the legislation establishing the DOD Inspector General, it would be worthy, I think, of this Subcommittee's consideration to examine the matter.

Mr. POWNALL. There is confusion in the legislation establishing this function over the proper role of the I.G. I believe the role should be confined to assisting management by uncovering, through audit type activities, either a failure to properly executive policy or a need for new policy guidance. In performing this function, the I.G. should follow normal audit guidelines, desist from being an advocate, and present a balanced integrated assessment of the facts. It must completely detach itself from

operational type responsibilities to preserve its objectivity and its independence. It must not assume an advocacy role in the formulation of policy.

Senator QUAYLE. Do you see the need to change any aspect of the I.G.'s charter of administration?

Mr. POWNALL. I see the need to more precisely define the role and authority of the I.G. It cannot, at one and the same time, be an auditor, a formulator of policy, an advocate, and a policeman. It should assist management through constructive activity rather than seek to manage. Lastly, it should not be vested with omnipotence. Its audit reports should present a fair and balanced commentary with due regard to comments, criticisms, and technical corrections.

Mr. ANDERSON. The I.G.'s charter should be more specifically defined to exclude policy formulation, either directly or indirectly. In addition, the I.G. should be considered an advisory role, one that assists management, not one that has a management charter. The I.G. should continue to play a proper role, but only as an auditor and investigator in an advisory capacity.

MICRO-MANAGEMENT VERSUS OVERSIGHT

Senator QUAYLE. Mr. Pownall, on page 7 of your statement you acknowledge that an oversight role is essential for Congress. You contrast a proper oversight function with the problem of Congressional micro-management. If we on the Task Force are going to properly carry our charter, we need to have a very clear sense of our proper oversight role.

From your private sector management perspectives, gentlemen, where do we draw the line that separates oversight from micro-management?

Mr. POWNALL. Legislative micro-management, in my view, is the congressional prescription of detailed actions to remedy problems best addressed by management. Congress is understandably and institutionally ill-suited to deal with particulars pertaining to complex problems in a dynamic environment. Congress is better suited to dictate management objectives, assess their attainment by qualitative and quantitative standards, and to demand accountability with respect thereto. In addition, efforts to manage or control procedures through legislation result in a difficult and inefficient management process.

Senator QUAYLE. Is it merely a question of too many hearings before too many committees, or is there some problem with the essential approach that Congress has taken in the defense budget and procurement areas?

Mr. POWNALL. Congressional management of the authorization and appropriations process could be better orchestrated to avoid redundancy and overlap. There appears, at times, to be a deterioration in the intended jurisdictional authority of various congressional committees. Not only does this consume inordinate time on the part of all involved, but sometimes brings about disjointed actions which must then be hastily resolved through conference action with less than optimum results and with less than full and reasoned consideration.

Senator QUAYLE. What guidelines should we use in defining our proper oversight role over established procurement and regulatory system?

Mr. POWNALL. I see a definite advantage to the reassertion of authority of the authorization committees over program issues and the acquisition process itself. Continuing resident and focalized congressional expertise in the area of acquisition management is desired to assure a reasoned and balanced resolution of pervasive problems.

THE POLITICIZATION OF THE PROCUREMENT PROCESS

Senator QUAYLE. In trying to respond to the public outcry that followed the procurement "horror stories" in the press, the Department of Defense and the services took actions such as requesting funds on certain items that were not legally required under existing procurement regulations.

Do either of you view these kinds of requests by DOD as a serious trend?

Mr. ANDERSON. I am disturbed at the apparent trend in this direction within the DOD. Obviously, if the Department honestly believes it has been ripped-off, it should be free to ask for a refund whether or not it has a legal right to it. However, I would emphasize that the vast majority of so-called "horror stories" involve items that were priced in full conformity with the cost accounting systems negotiated with the Government. It is an economic reality that all costs incurred have to be allocated somewhere and in the cases that have been publicized, the seemingly excessive costs of individual spare parts were doubtless offset on virtually a dollar for dollar basis by lower allocation amounts on other products sold to the Government. It is manifestly unfair for the Government to participate actively in the structuring of a

contractor's pricing system with full knowledge of the circumstances and then, by way of a voluntary refund demand, repudiate the costs of the system while retaining its full benefits. The use of the voluntary refund request should emphatically not be used merely because some Government official may happen to believe that a contractor's profit on a particular project is higher than the official believes is appropriate.

Mr. POWNALL. While not necessarily a trend, I see a growing inclination to respond to publicly perceived problems in a sometimes sensational and unnecessarily harsh manner out of a belief that such action is required to preserve the credibility of DOD and the viability of the budget submission. This, too often, leads to high visibility near term solutions to problems which may have undesirable long-term consequences and whcih, more often than not, treat the symptons and not the root causes.

Senator QUAYLE. Mr. Pownall, the refund requests often served to reinforce public misperceptions of the problems in the defense procurement systems rather than to correct them.

Should we be contemplating any legislative or administrative changes in procurement law to reduce the pressure on the Services to seek refunds or other contractor actions beyond that required under a given contract?

Mr. POWNALL. No, I think not. I do believe, however, Congress should desist from publicly lauding and endorsing such activity in the absence of all the facts.

Senator QUAYLE. There is another alleged issue closely related to politicization and that is the one of overcriminalization.

Mr. Anderson and Mr. Pownall, do either of you feel that the pressure of public frustration with military procurement problems is pushing the Department of Defense into the use of criminal statues against defense contractors when there are other less severe and perhaps more appropriate means of resolving contract disputes?

Mr. ANDERSON. The tendency is to overcriminalize the procurement process. Every criminal should be prosecuted to the fullest extent of the law; however, we now tend to look for civil or even criminal fraud where there has only been an honest mistake or unintentional conduct. We do not need to make a public example out of every simple mistake. What we need is for good managers to make good decisions without the unnecessary fear and threat of the inappropriate use of the criminal process.

Mr. POWNALL. Yes, I definitely think so. I do not object to the criminal prosecution of criminals. I do decry, however, the failure to distinguish between criminal intent and honest mistake, uncertainty, or unintended conduct. The latter is more readily corrected through negotiation and equitable adjustment. Inappropriate use of criminal proceedings in lieu of using administrative processes that are available in contract administration can have a serious impact on federal acquisition.

SUBCONTRACTOR BASE

Senator QUAYLE. Many of the procurement changes made in the Defense Authorization Act for Fiscal 1985 are aimed at increasing small business competition for defense contracts. One of the intended consequences of these reforms is to increase the defense industrial base of subcontractors.

Could you gentlemen give the Task Force a brief description of where the trends in your subcontractor base are moving in comparison with the 1979-1980 time period?

Mr. ANDERSON. Competition in our subcontractor base is increasing in many areas, and this has been influenced by numerous factors. We are also proud of our efforts as a prime contractor in assuring that our subcontractors perform effectively and efficiently.

Mr. POWNALL. Competition in our subcontractor base is increasing. Many factors influence both the quality and quantity of this competition and this base. Our most significant efforts have been directed toward our capabilities as a prime contractor to assist subcontractors to perform more efficiently.

Senator QUAYLE. Have leadtimes for critical components from your second- and third-tier suppliers been decreasing or increasing?

Mr. ANDERSON. In today's high technology aircraft and aerospace markets, the subject of critical components can most often be redefined as electronic components purchased to high reliability military and industry standards. In that context the leadtimes, whether at the prime, first or second tier subcontractor level, have clearly been increasing. The increase has been such that often the entire program is

being driven by the leadtimes required to procure the parts necessary to build the assemblies—the black boxes—that are key to the sophisticated systems involved.

While the semiconductor manufacturer have their ups and downs on an overall or average basis, we see the leadtimes for the high reliability parts continuing to increase. In the case of the simple transistor, diode or digital circuits, the leadtimes are increasing (as are the costs) because of the diminishing number of producers interested in a shrinking, non state-of-the-art product line. In the case of the newer technologies—gate arrays, standard cells and so on—our low volume and limited demand relative to the commercial market cause the manufacturers to devote a small portion of their resources to the military, government market. The resources—people and facilities—can more profitably be employed in advanced state-of-the-art fast moving commercial markets, where the inherent bureaucracy of profit limitations, fair pricing, socioeconomic programs and the like are not involved. In summary, delivery of a high reliability electronic component may range up to a year and a half, where six months should be sufficient.

Leadtimes on other components are expected to begin increasing during the next six (6) months, primarily as a function of demand on the aerospace industries. This would include most aircraft equipment (hydraulic, pneumatic, electrical, etc.), forgings, and fasteners (e.g. Hi-Locs).

Mr. POWNALL. Decreasing, in general, but what we find is a growing erosion of the industrial base in certain select areas for a variety of reasons.

Senator QUAYLE. Do you foresee any effect of our procurement changes, whether good or bad, on the health of your subcontractor base?

Mr. ANDERSON. We anticipate that the subcontractor base will be adversely affected by recent procurement changes contained in the Defense Procurement Act of 1984 and the Competition In Contracting Act. When the implications of the warranty provisions and the rights in technical data provisions are passed down to subcontractors, it has been our experience that an overzealous implementation of these requirements by the government will occur and force Prime Contractors to significantly tighten down on all aspects of such with subcontractors of all tiers. This will tend to discourage their continued participation in the government subcontractor market in favor of the less restrictive nature of the commercial markets.

Responses to our efforts to date to have subcontractors accept required flow down of such contractual provisions have been generally negative. The few that have indicated willingness are placing large cost contingencies in their prices.

Mr. POWNALL. I believe that recently enacted legislation as to data rights and warranties may have the unintended consequence of eroding the subcontractor base. In general, any movement in the direction of additional regulation, audit, certification, etc. has a negative effect. The challenge is to strike a balance between the legitimate needs of the government and the legitimate needs of industry. I think multi-year procurement, the new synopsis requirements, the emphasis of increased competition, and QPL/precertification requirements will have a positive effect as will "competition advocates" and expanded requirements as to the justification of sole source awards. It is too soon to comment on the new rules on bid protests.

COST ACCOUNTING STANDARDS BOARD

Senator QUAYLE. With the decision by the Federal Court to assign the authority previously vested in the Cost Accounting Standards Board to the Department of Defense, concerns have been expressed that this places too much authority in the hands of the customer, the Department of Defense, to modify accounting standards.

What are your views on this issue?

Mr. ANDERSON. As I understand the background in this matter, the Department of Justice gave an opinion to the Department of Defense that the Department of Defense was not legally obligated to adopt the Cost Accounting Standards, and that it was free to modify the Standards for its own purposes as it wished. The legal basis for such an opinion is not concurred in by other substantial legal sources. Nonetheless, based on this opinion, the Department of Defense is moving ahead to establish its own cost accounting standards board.

Before addressing the concerns that have been raised over the Department of Defense's initiatives in this area, I feel a more fundamental question needs to be raised. That is: Has a need for a new Cost Accounting Standards Board been supported? Before Congress made the decision several years ago to provide no further funding for the CAS Board, Elmer Staats, the Comptroller General and the Chairman of the CAS Board, stated publicly and testified before Congress that the work of the CAS Board was completed. The CAS standards as issued accomplished their stated purposes of providing a basic framework for uniformity and consistency in

cost accounting practices of Defense contractors. Since that time I think it can be agreed that little has changed in the field of cost accounting that would indicate Mr. Staats' conclusion is no longer valid. I think it can be agreed that some specific dollar thresholds that were inserted in the Standards are no longer realistic; however, updating of these monetary provisions should not necessitate the administrative expense inherent in setting up and maintaining an all-new CAS Board.

With regard to the initiatives by the DOD to set up its own Board, a review of the promulgations by the original CAS Board justifies Industry's concerns. With each Standard, comments were issued showing objections raised not only by Industry but by the procuring agencies as well, and the CAS Board's handling of these questions. Although Industry did not agree with all actions by the Board, it is clear that in some cases the Board was persuaded by good accounting concepts rather than desires of the procuring agencies.

The concern of Industry is that a cost accounting standards function under the control of the Department of Defense would lose the necessary independence and objectivity.

These two attributes are essential in providing sound accounting requirements that will result in reasonable and fair costing of products and services to the Government, but at the same time enable the contractor to recover the necessary costs of running his business. Further, changes in existing standards by the DOD will indisputably have a costly and adverse impact on Defense contractors who have adopted and maintained accounting systems and practices to comply with the existing Standards. No one in Industry I know favors DOD's operation of a cost accounting standards function. DOD should not operate a CAS function under any circumstances.

The following actions in the Cost Accounting Standards area should be taken by Congress if we are to avoid these problems:

1. Provide legislation which clarifies the status of the existing Standards as law of the land binding upon both Industry and the executive agencies, and not subject to modification by any executive agency.

2. Provide legislation which prevents any executive agency from issuing its own cost accounting standards.

3. Provide legislation delegating CAS waiver and exemption authority to an existing agency, subject to Congressional overview.

4. Provide legislation authorizing an existing agency to update specified thresholds and administrative requirements contained in the Standards.

Mr. POWNALL. I think cost accounting standards should be interpreted, promulgated, and revised by those who are expert in accounting and not by DOD acquisition personnel who, as customers, have a vested and sometimes biased prospective. I see need for authority to grant waivers and deviations as appropriate and for the need to update existing standards to accommodate intervening changes; nevertheless, I am not mindful of any compelling need for *new* standards. If the CASB were to be reconstituted, it should have industry representation, its membership should be objective accounting professionals, and it should not be part of the DOD.

Senator QUAYLE. Do either of you feel that cost is the major factor in the award of contracts, or do you feel that the decisive factor in a contract award tends to be the technical and engineering merits of a specific contractor's proposal?

Mr. ANDERSON. The strong drive to reduce the cost of products has, in my opinion, made price the current overpowering determinant in awarding DOD contracts.

The pressures within DOD to achieve statistics showing increased competition has resulted in an ill-conceived trend to utilize fixed price contracts for efforts better suited to cost type contracts. DOD is edging back toward Total Package in its procurement policy. I am concerned that we will have serious problems downstream if this unfortunate trend continues.

Moreover, this emphasis on cost often results in the acceptance of proposals on new development programs that are minimally acceptable technically.

Mr. POWNALL. For production contracts, it is usually cost that is the major factor. Even for R&D, cost is a relevant and important consideration. Ideally, the selection should be an integrated assessment of risk, cost realism, technical excellency, past performance, and schedule. As to cost, it is not the price promised but the most probably estimated life cycle cost to the government that must be weighed—especially in the case of flexibly-priced contracts.

QUESTIONS SUBMITTED BY SENATOR SAM NUNN

MINIMUM TENURE FOR PROGRAM MANAGERS

Senator NUNN. The last Congress adopted legislation providing for a minimum tenure for certain DOD program managers. One of the primary purposes of that amendment was to ensure stability in program management.

Do you believe that program stability will be increased with the requirement for a minimum tenure for program managers?

Mr. ANDERSON. Yes, such action by the Congress is a positive step to instill more stability in program management, although more must be done in the area of up-front funding, multi-year procurement, etc.

In addition, more can be done, in my opinion, to train and attract more qualified military personnel into the procurement process. The services must realize the vast amounts of dollars that must be expended and prudently managed to carry out their missions. I believe some sort of business education should be offered in the military academies, and a career in procurement elevated as a factor for promotion, equivalent to strictly military paths including potential for flag positions. This would mitigate the current practice of periodic rotational assignments for career enhancement and permit the more promising individuals a longer tenure on key programs.

Mr. POWNALL. No. The problem of program stability greatly transcends the issue of tenure for program managers.

ATTRACTING AND RETAINING TOP OFFICIALS IN PROCUREMENT POSITIONS

Senator NUNN. There have been a number of concerns expressed about the entry into Government from the private sector of key managers, and the exiting back into industry of top civilian and military officials. Yet the issues which the Congress needs to address are somewhat different in each case.

In your judgment, how have the various rules and regulations of the Federal system (such as the conflict of interest laws/pay/exit opportunities) affected our ability to attract and retain top officials?

Specifically, do the divestiture laws create any particular impediment to attracting officials into Government?

Mr. ANDERSON. The current regulations significantly restrict the number of available candidates to choose from for key positions. The greatest impediment in recruiting from business and industry is the current prohibition against a leave of absence. A person must quit to enter government service which means forfeiture of retirement and other benefits for a position which is most frequently temporary in tenure.

Divestiture requirements positively inhibit recruiting. In addition, several other factors make entry into Government service unattractive to industry personnel, such as: no provisions for relocating the candidate and family; possible restrictions on the employee after leaving government service; and the depressed salary level of key positions as compared to similar levels of responsibility outside government.

When you add up all of the impediments, it is very clear that the regulations make government service attractive to only a small segment of the population—either those wealthy enough to withstand the financial impact or those whose current overall income will not be seriously impacted. The average patriotic citizen must be willing to give up a great deal and then agree to work for a noncompetitive salary. The current regulations impede recruiting of key officials and encourage turnover.

Mr. POWNALL. Industry can and does attract many talented retired military and civilian personnel who are able to make significant contributions without encroachment upon conflict rules and regulations. On the other hand, I do detect considerable difficulty in attracting industry personnel into key government appointed positions because of post-government employment restrictions. I earnestly believe there is little or no abuse and that current rules are harmful to the overall best interests of good management in government. Further restrictions may serve to deprive us all of the valuable service these people can contribute.

Senator NUNN. Conflict of interest concerns must still be addressed.

Can you suggest an appropriate balance between the need to ensure that Government officials work for the best interest of the Government while not jeopardizing their opportunities to obtain employment in the private sector?

Should there be any type of Defense employee that should be constrained from the "revolving door"?

Mr. ANDERSON. The balance between working for the best interest of the Government and not jeopardizing private sector employment opportunities has been estab-

lished quite adequately in the Ethics in Government Act of 1978 and the regulations promulgated under that Act. The constraints established in the Act and its regulations are clear and equitable in application to Government officials—both military and civilian. Likewise, they pose few, if any, problems for potential employers when considering former Government officials for private sector employment. So far as the so-called "revolving door" problem is concerned—that is, the case of the private sector employee going into Government for a brief period then returning to private industry employment—the present regulations handle that situation quite adequately and fairly.

The so-called "concerns" about conflict of interest which have given rise to suggestions of extreme measures amounting almost to "blacklisting" individuals with Government service have resulted from over-reaction to isolated instances of seeming impropriety. As I've stated above, the present ethics statute and regulations are effective, workable and equitable.

Mr. POWNALL. I see no need for legislative action. As to documented instances of abuse, we need to do no more than enforce those rules and regulations already in place.

APPLICATION OF LAWS AND REGULATIONS TO CLASSIFIED PROGRAMS

Senator NUNN. Mr. Anderson, in your statement you talk about the success you have had in the "skunkworks" working with the Department on weapons systems.

In general, does the fact that a program is classified override the application of any of the procurement laws or rules to those programs?

Mr. ANDERSON. Most assuredly not. The difference lies in the approach taken to apply these procurement laws and rules. Because generally fewer people are involved, a greater team spirit is generated with government and contractor personnel working together to address difficulties and solve problems as they arise.

Senator NUNN. Could you elaborate on your statement (page 5) that the "only real difference between these programs) is the management method and the freedom from tinkering by too many people."

Mr. ANDERSON. My statement regarding "the real difference between these programs" relates to the fact that the weapons systems produced by classified programs are as complex and advanced, if not more so, than any developed and produced in the normal system. The savings in time and money come from a management approach on the part of both the Government and the Contractor that: (1) uses small program offices with greater than normal authority, (2) eliminates or minimizes unnecessary technical specifications and other requirements not essential to operational performance, (3) avoids or limits many administrative requirements and regulations that do not contribute directly to technical, quality, or fiscal performance or to the overall integrity of the program, (4) limits the access of the many peripheral organizations and people who do not have an absolute need-to-know, (5) reduces documentation and reporting to the minimum levels required to assure program performance and accountability, and (6) permits direct, rapid communication between program offices without filtering by the intermediate representatives of either party. A corollary to the foregoing response is my observation that this mode of operation in both Government and industry tends to exclude much of the bureaucracy in both organizations.

Limited access to these programs results in a more tightly knit group which makes it easier to apply the basic precepts of good management, i.e., select good people, assign them responsibility, and give them the authority and freedom to make decisions and do their job without unnecessary approvals and outside interference. This environment of constructive teamwork in pursuing a shared objective serves to attract and hold the kind of excellent professionals that, in the end, are the key to success in any project.

PROJECTING WEAPONS SYSTEMS STABILITY

Senator NUNN. In both statements (Anderson, page 6; Pownall, page 8) you mention the need for program stability and to more accurately project "downstream affordability." Clearly this implies multi-year program planning, multi-year authorizations and possibly even multi-year appropriations.

Today, the Congress tends to review programs on a year-to-year basis to accommodate the Congressional budgeting cycle.

Is there another measure that Congress could adopt as part of its oversight responsibility that would provide a better means for Congress to evaluate the progress of the programs?

Should Congress take a more active role in reviewing the number of production lines that contractors should be permitted to open and maintain?

Could tracking done along DSARC lines be appropriate and productive.

Mr. ANDERSON. Multi-year authorization is highly desirable for stable multiyear planning, and appropriations for approved programs should be made on at least a two-year basis. I believe that programs should be planned with the intent to present DSARC decision milestones for Congressional review. The challenge is to accomplish the review required by the oversight responsibility without falling into the trap of Congress or Congressional staff micromanagement of the DSARC process.

This series of questions raises a fundamental issue of the level of detail required to meet Congressional oversight responsibilities. In fact, there does not appear to be any level of detail that is an adequate substitute for confidence in responsible officials. This is reflected in the growing pattern of micromanagement by Congressional committees, subcommittees and, in particular, their staffs; which, in turn is interpreted and amplified by the Defense Department and military service bureaucratic superstructure. The best way to reverse this pattern, in my opinion, would be to ask ourselves what is the least necessary Congressional oversight required to establish and maintain confidence in the performance of Executive Branch officials in carrying out their responsibilities. This must be a deliberate step taken with some risk, but with the object of establishing and maintaining a basis of mutual trust and respect between the Congress and the Executive. This, in turn, should recreate an environment into which we could again attract the best and brightest to all levels of government service.

Mr. POWNALL. I see a need for Congress to consider the propriety of expanding multi-year procurement by eliminating the constraints on full funding, funding termination liability on a program by program basis, by requiring prior approval, and by insisting upon cost savings to the exclusion of all other benefits. A one-time congressional authorization would facilitate establishment of stable programs, negate the need, in part, for program stretch-outs. Lastly, congressional veto of program cancellations should be curtailed. Two-year appropriations would also be constructive. On balance, it is difficult to intelligently plan, develop, produce, and manage a major program in a dynamic environment which, in effect, annually negates the contractual arrangement and perturbates quantities, production rates, learning, options that have been priced, and delivery schedules.

Senator QUAYLE. The committee is adjourned.

Mr. POWNALL. Thank you, sir.

[Whereupon, at 11:45 a.m., the task force adjourned, subject to the call of the Chair.]

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